

## SENATE BILL No. 344

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8.

**Synopsis:** Police officer and firefighter appointments. Authorizes a unit of local government to appoint or reappoint a police officer or firefighter who is at least 36 years of age, if the unit adopts an ordinance to do so and the individual purchases, over a period not to exceed ten years, service credit in the 1977 police officers' and firefighters' pension and disability fund (1977 fund) for the period from the appointee's thirty-sixth birthday to the date of appointment. Allows an employer to make all or some of the payments required for the service credit purchase.

**Effective:** July 1, 2008.

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**Jackman, Weatherwax**

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January 14, 2008, read first time and referred to Committee on Pensions and Labor.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## SENATE BILL No. 344

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 36-8-3.5-12, AS AMENDED BY P.L.99-2007,  
2       SECTION 214, IS AMENDED TO READ AS FOLLOWS  
3       [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) To be appointed to the  
4       department, an applicant must be:

- 5               (1) a citizen of the United States;  
6               (2) a high school graduate or equivalent; and  
7               (3) **unless the unit has adopted an ordinance under subsection**  
8               **(i),** at least twenty-one (21) years of age, but under thirty-six (36)  
9               years of age,

10       However, the age requirements do not apply to a person who has been  
11       previously employed as a member of the department.

12       (b) A person may not be appointed, reappointed, or reinstated if ~~he~~  
13       **the person** has a felony conviction on ~~his~~ **the person's** record.

14       (c) Applications for appointment or reappointment to the  
15       department must be filed with the commission. The applicant must  
16       produce satisfactory proof of the date and place of ~~his~~ **the applicant's**  
17       birth.



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(d) Applicants for appointment or reappointment to the department must pass the general aptitude test required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5. The general aptitude test shall:

- (1) reflect the essential functions of the job;
- (2) be conducted according to procedures adopted by the commission; and
- (3) be administered in a manner that reasonably accommodates the needs of applicants with a disability.

The results of the general aptitude test shall be filed with the commission. If the commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(e) The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading the applicants, including the establishment of a passing score. The commission shall place the names of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

(f) If an applicant for original appointment reaches ~~his~~ **the applicant's** thirty-sixth birthday, ~~his~~ **the applicant's** name shall be removed from the eligibility list, **unless the unit has adopted an ordinance under subsection (i).** Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.

(g) When a vacancy occurs in the department, the commission, upon a written request of the chief of the department, shall administer the physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes the physical agility test, the applicant shall then be enrolled as a member of the department to fill the vacancy if:

- (1) the applicant is still of good character; and
- (2) the applicant passes the required examinations identified in IC 36-8-3.2-6 and IC 36-8-19.

(h) All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the commission shall notify ~~him~~ **the member** in writing that ~~he~~ **the member** is being reprimanded, that ~~he~~ **the member** is being suspended, or that ~~he~~ **the member** will not receive a permanent appointment. If a member is notified that ~~he~~ **the member** will not receive a permanent appointment,

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his the member's employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.

(i) **Notwithstanding any other state law, a unit may by ordinance authorize the appointment or reappointment of an applicant who is at least thirty-six (36) years of age if the applicant agrees to make a purchase of service credit under IC 36-8-7(n).**

SECTION 2. IC 36-8-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) A person may not be appointed as a member of the police department or fire department after the person has reached thirty-six (36) years of age, **unless the unit has adopted an ordinance under subsection (e). If the unit has not adopted an ordinance under subsection (e),** a person may be reappointed as a member of the department only if the person is a former member or a retired member not yet receiving retirement benefits of the 1925, 1937, 1953, or 1977 fund and can complete twenty (20) years of service before reaching sixty (60) years of age.

(b) This section does not apply to a fire chief appointed under a waiver under section 6(c) of this chapter or a police chief appointed under a waiver under section 6.5(c) of this chapter.

(c) A person must pass the aptitude, physical agility, and physical examination required by the local board of the fund and by IC 36-8-8-19 to be appointed or reappointed as a member of the department.

(d) A fire chief appointed under a waiver under section 6(c) of this chapter or police chief appointed under a waiver under section 6.5(c) of this chapter who is receiving, or is entitled to receive, benefits from the 1925, 1937, 1953, or 1977 fund may receive those benefits while serving as chief, subject to all normal requirements for receipt of a benefit, including a separation from service.

**(e) Notwithstanding any other state law, a unit may by ordinance authorize the appointment or reappointment of an applicant who is at least thirty-six (36) years of age if the applicant agrees to make a purchase of service credit under IC 36-8-8-7(n).**

SECTION 3. IC 36-8-8-7, AS AMENDED BY P.L.1-2006, SECTION 575, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), (h), (k), (l), ~~and~~ (m), **and (n):**

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19

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of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires the police officer or firefighter chooses to contribute to the 1977 fund the amount necessary to amortize the police officer's or firefighter's prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for the police officer's or firefighter's prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired by the police or fire department of a unit before May

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1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction; shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the

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time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;  
 (2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and  
 (3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

(1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1;

(2) whose employer is consolidated into the consolidated law enforcement department or the fire department of a consolidated city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and

(3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, if:

(1) before a consolidation under IC 8-22-3-11.6, a police officer or firefighter provides law enforcement services or fire protection services for an entity in a consolidated city;

(2) the provision of those services is consolidated into the law enforcement department or fire department of a consolidated city; and

(3) after the consolidation, the police officer or firefighter becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 8-22-3-11.6;

the police officer or firefighter is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l) may not be:

(1) retired for purposes of section 10 of this chapter; or

(2) disabled for purposes of section 12 of this chapter;

solely because of a change in employer under the consolidation.

**(n) A police officer or firefighter appointed or reappointed by a unit under IC 36-8-3.5-12(i) or IC 36-8-4-7(e) is a member of the 1977 fund only if the individual agrees to purchase service credit under the following provisions:**

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1 (1) The individual purchases service credit for the period  
2 between the individual's thirty-sixth birthday and the date of  
3 appointment or reappointment under IC 36-8-3.5-12(i) or  
4 IC 36-8-4-7(e).

5 (2) The PERF board determines the amount of the  
6 contributions required to purchase the service credit, and the  
7 contributions must be computed to result in an amount that  
8 approximates the actuarial present value of the benefit  
9 attributable to the service credit purchased.

10 (3) The PERF board shall allow the individual to make  
11 periodic payments of the required contributions over a period  
12 that does not exceed ten (10) years.

13 (4) An employer may pay all or a portion of the member  
14 contributions required for the purchase of service credit  
15 under this subsection.

16 (5) The purchase of service credit under this subsection is  
17 subject to the limitations under Section 415 of the Internal  
18 Revenue Code.

19 (6) If the individual does not make all of the payments  
20 required to purchase service credit under this subsection  
21 before the individual separates from service with the  
22 appointing unit, the individual is entitled to withdraw the  
23 contributions paid plus interest under section 8(b) of this  
24 chapter.

25 SECTION 4. [EFFECTIVE JULY 1, 2008] IC 36-8-3.5-12,  
26 IC 36-8-4-7, and IC 36-8-8-7, all as amended by this act, apply to  
27 an individual who is appointed or reappointed to a police or fire  
28 department after June 30, 2008.

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